

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TEXAS**

SUSAN BOLES

Plaintiff,

VS.

STORAGE MAX-TYLER, LIMITED  
PARTNERSHIP, D/B/A TYLER  
STORAGE MAX, LTD.

Defendant

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CIVIL ACTION NO. \_\_\_\_\_

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**DEFENDANT’S NOTICE OF REMOVAL**

The Petitioner, STORAGE MAX-TYLER, LIMITED PARTNERSHIP D/B/A TYLER STORAGE MAX, LTD. (hereinafter “Tyler Storage Max”) respectfully states to this Court:

1. The Lawsuit was filed in the 241<sup>st</sup> Judicial District Court of Smith County, Texas on November 20, 2013 as Cause No. 13-3084-C in which the above named Susan Boles is named as the Plaintiff, and Petitioner, Tyler Storage Max is named as Defendant.
2. The only claim that Plaintiff’s state court petition asserts is a claim under the Fair Labor Standards Act, 29 U.S.C. § 201 *et seq* (“FLSA”). (See Plaintiff’s Complaint and complete state court pleadings, attached hereto as Exhibit “1” and incorporated herein by reference).
3. Plaintiff has alleged a violation of federal law on the face of her complaint. (Ex. 1, Petition. ¶ 2.). Therefore, this case is removable based on federal question jurisdiction. Federal district courts have jurisdiction over cases "arising under the Constitution, laws, or treaties of the United States." 28 U.S.C. § 1331.

4. Federal question jurisdiction is determined by the well-pleaded complaint regardless of the amount in controversy or the citizenship of the parties. 28 U.S.C. § 1331.
5. Additionally, Plaintiff seeks to recover an amount in excess of \$75,000, exclusive of interest and costs. (Ex. 1, Petition. ¶ 1.)
6. Petitioner does not admit the propriety, sufficiency or effectiveness, in law or fact, of the purported service of the Citation and Petition. Petitioner expressly preserves all of these issues for future challenge.
7. In the interest of judicial economy and the fair adjudication of claims brought before the Court, Petitioner seeks removal of the pending lawsuit to this Court.
8. This notice is filed with the Court within the time period set for removal set forth in 28 U.S.C. §1446(b) in that the Plaintiff filed a Complaint on November 20, 2013, and service upon Defendants was made on November 22, 2013 by way of personal service. The instant Notice of Removal is filed within thirty (30) days of said service. (See Citation for Personal Service attached hereto as Exhibit “1” and incorporated by reference).
9. A jury demand was made in the state court action by Plaintiffs. (Ex. 1, Petition. ¶ 23).
10. As required by 28 U.S.C. §1446(d), all parties of record promptly will be served with notice of this removal and such notice will be filed with the Clerk of the District Court of Smith County, Texas, 241<sup>st</sup> Judicial District.
11. Once the notice is filed with the state court, a certification that such filing has been made will be filed with this Court.
12. Copies of all documents required to be filed pursuant to 28 U.S.C. §1446(a) and Local Rule CV-81 are attached as follows:

<b>Exhibit #</b>	<b>Description of Exhibit</b>
1.	All Pleadings in State Court Action
2.	Certified Copy of State Court Docket Sheet
3.	Information Required by Local Rule CV-81

**WHEREFORE**, Petitioner, TYLER STORAGE MAX. Respectfully requests that they may effect a removal of this action from the 241<sup>st</sup> Judicial District Court of Smith County, Texas to the United States District Court for the Eastern District of Texas.

Respectfully submitted,

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By: /s/ Wesley Eby Johnson  
WESLEY E. JOHNSON  
Texas Bar No. 24012918  
ATTORNEYS FOR DEFENDANT  
Storage Max-Tyler, Limited Partnership  
D/B/A Tyler Storage Max, Ltd.

**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the foregoing document has been served upon the following counsel of record via facsimile and U.S. Mail in accordance with the Texas Rules of Civil Procedure on this 18<sup>th</sup> day of December 2013:

/s/ Wesley Eby Johnson